

**LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
WEDNESDAY, AUGUST 18, 2010, 7:30 P.M.**

Present: Robert Kulak
Cathleen Lewis
Leona Maffei
John Gladwell, Alt. #2
Charles Lavine, Vice Chairman
Peter Kremer, Chairman

Absent: Stephen Brame (Absent/excused)
Bruce Kmosko, Alt. #1 (Absent/excused)

Also Present: Brenda Kraemer, P.E., Assistant Municipal Engineer
Brian Slaugh, P.P., AICP, Planning Consultant, Clark•Caton• Hintz
Edwin W. Schmierer, Attorney, Mason, Griffin & Pierson

Also Absent: Sara A. Summiel, Recording Secretary (Excused)

1. Statement of Adequate Notice

Adequate notice of this meeting of the Lawrence Township Zoning Board has been provided by filing the annual meeting schedule with the Municipal Clerk as required by law; by filing the agenda and notice with the Municipal Clerk, posting prominently in the Municipal Building, and mailing to the Trenton Times, the Trentonian and the Lawrence Ledger newspapers on Thursday, August 12, 2010.

2. RESOLUTIONS:

RESOLUTION OF MEMORIALIZATION 14-10z APPROVING BULK VARIANCE APPLICATION NO. ZB-8/10 EDWARD & SOPHIA DAVIS, 277 FIELDBORO DRIVE, TAX MAP PAGE 19, BLOCK 1902, LOT 3.

Mr. Kulak moved and Mrs. Maffei seconded to approve Resolution No. 14-10z.

Vote:

AYES: Kulak, Maffei, Lavine, Kremer

ABSENT: Brame, Kmosko

INELIGIBLE TO VOTE: Lewis, Gladwell

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RESOLUTIONS - Continued

**RESOLUTION OF MEMORIALIZATION 15-10z APPROVING USE
VARIANCE APPLICATION NO. ZB-5/10, PRELIMINARY & FINAL
SITE PLAN APPLICATION NO. SP-4/10, THE ISLAMIC CIRCLE OF
MERCER COUNTY, 336 LAWRENCE STATION ROAD, TAX MAP
PAGE 42.01, BLOCK 4201, LOTS 13 & 14.**

Mrs. Maffei moved and Mrs. Lewis seconded to approve Resolution No. 15-10z.

Vote:

AYES: Kulak, Maffei, Lavine, Kremer

ABSENT: Brame, Kmosko

INELIGIBLE TO VOTE: Lewis, Gladwell

3. MINUTES FOR APPROVAL: June 16, 2010 – Regular

Mr. Kulak moved and Mrs. Lewis seconded to approve the minutes

This carried on the following voice call vote: AYES (6) NAYES (0)

ABSENT (2) INELIGIBLE TO VOTE (0)

4. CLARIFICATION OF APPROVAL:

**Bulk Variance Application No. ZB-12/03, Preliminary & Final Site Plan
Application No. SP-9/03 (DOUGLAS S. KNEHR, ESQUIRE), 208 Bakers
Basin Road, Tax Map Page 40.01, Block 4001, Lot 29.**

The hearing was recorded. The Board took jurisdiction.

The applicant, Douglas S. Knehr, Esquire, appeared on his own behalf and requested permission for clarification in order to obtain the building permit.

Mr. Schmierer gave a detailed explanation of the proceedings with regard to Mr. Knehr's approval of December 16, 2009, for permission to construct a 20x40 garage/storage structure per Resolution 9-10z. He further stated that Mr. Knehr's required submittals to the Township, in accordance to the terms of approval, did not reflect the initial filing. He stated that Mr. Knehr's submitted construction plans to the Construction Office reflected uses beyond the Zoning Board's approval for a garage/storage facility and therefore, the plans were not approved. He explained that the construction plans submitted by Mr. Knehr reflected some interior uses such as a kitchen,

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full-bathroom, entry foyer and living space. He stated that although the construction plans have been revised by Mr. Knehr to only reflect the approved 20x40 garage/storage facility, the Township's Zoning Office is seeking clarification of the applicant's intent. Mr. Schmierer explained that this proceeding is not an application but only for Clarification, per the Township of Lawrence. (See Attachment No. 1 – Relevant Letters, Emails and Resolution).

Mr. Knehr addressed the Board and referred to Exhibits K-1 thru K-3 stating that the construction plans submitted to the Construction Office were approved by the Construction Office and the Zoning Office on May 21, 2010. He addressed the storage space and objected to the Township's review of the proposed facility, being habitable on the second floor. He proceeded to refer to the Township's Letters and did not feel that the Township has given the total picture with regard to the approvals. He stated that it was of his opinion that the Township stopped the approval for the building permit because of his law suit against the Township for trespassing on his property for a stormwater easement concern. He addressed Mr. Parvesse's email dated June 29, 2010, and questioned Mr. Parvesse's stated items of concern. Mr. Knehr stated that the design was completed after the approval of the plans. He stated that the majority of the first floor is intended for storage for his tenants and personal storage. Also, he stated that he is now proposing a total of three garage bay areas. He proceeded to state that the second floor is not an apartment and questioned the Township's true definition of habitability status and its true components. He stated that after the December hearing with the Zoning Board, it was his assumption that he would use the building as storage and that the whole building could be habitable, even though there were no discussions with the Zoning Board. He did not feel that the Township's code, adequately, defined 'what makes a habitable space'. He stated that he still wants the design, as designed and proceeded to comments on the other components such as closets and the removal of the shower. He stated that even though he is willing to remove the shower, he would like the shower to wash his two big 75 lb. dogs. With regard to the heat and air conditioning, he stated that its use would be like heat and cool storage. Mr. Knehr continued to state his objections to Mr. Parvesse's email comments with regard to the listed items of concern, in totality, of his intended to use of the facility. He stated that he would not be living or cooking on the second floor and would be willing to put in a

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Deed Restriction. Mr. Knehr, then proceeded to request approval from the Board for some habitable space on the first and second floor because he did not feel that any of those designed uses, in its totality, would violate any aspect of the Township's code or what had been approved. He proceeded to ask the Board for clarification and/or approval to build those uses.

Mr. Slaugh stated that during his presence at the Zoning hearings, there was no representation of the applicant's added uses of a second floor. Mr. Slaugh did state that based on the Hearing in December of 2009, it was noted that the garage/storage facility would have only a stairway to access storage area, not a second floor with a bathroom, foyer, skylights, etc. Mr. Slaugh did recollect that Mr. Knehr submitted sketches of a gable roof one-story structure (Pre-fab Amish Building) with four garage bay areas and a stairway to access storage area, which would eliminate one bay area for the stairway. Mr. Knehr stated his objections and felt that Mr. Slaugh was clearly wrong.

Mrs. Kraemer gave a detailed statement of clarification to the applicant with regard to the Township's approval process in conjunction with the Resolution and the information that is generated, as part of that process.

Chair Kremer addressed that applicant's request and stated that based on the previous hearings, the approval for a garage/storage is officially reflected in the Resolutions. He stated that there were no discussions of habitable space for a second floor, other than a stairway to access the storage area.

Discussions followed by the Board Members with regard to their understanding of said approval that took place in December 2009 and stated that their approval was given for the construction of a garage/storage facility not to exceed the dimensions of 20'x40' to provide necessary storage for the applicant's tenants. Also, the Board Members strongly stated that there was no testimony provided or approvals given with regard to a second floor requiring a "residential use code". The Board Members did state their understanding of a stairway to access the storage area above the bay areas where vehicles were to be stored, but not the design of Mr. Knehr's interior uses. Also, the Board Members stated their review of Mrs. Kraemer's reports.

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Mr. Knehr stated his discontentment with the Township's clarification of approval and suggested that, as a concession, that approval be given for the designed interior uses of a kitchenette and shower, if he were to offer the required 185 sq. ft. drainage stormwater easement on his property that is associated with a law suit against the Township. Mr. Knehr stated that the concession would relieve the confusion on everyone's part regarding the habitable space. Chair Kremer and Mr. Schmierer stated their objections to Mr. Knehr's concession statement with regard to his law suit against the Township and possible conflict with this approval. Mr. Schmierer further stated to Mr. Knehr that the Zoning Board has no information or knowledge about a law suit and that any such action to trade a revised approval with an easement would be considered improper and separate.

Mr. Knehr proceeded to suggest that the Board delay voting and then requested the Board to review the easement matter and Township's willingness to return to him a 1.5-acre easement. Also, he requested the Board to advise him of what he would need to do to make the plan acceptable, if his concession regarding the 1.5-acre easement is not accepted.

A discussion took place by Chair Kremer with regard to the previous approved garage/storage facility and Mr. Knehr's personal choice of an investment property. Mr. Knehr continued to state his discontentment over the amount of money he has spent on this application. Chair Kremer further stated that he was in agreement with Mr. Slauch testimony regarding the approvals and statement about the second floor stairway.

Chair Kremer moved and Mrs. Maffei seconded *that the Board is clarifying that the approvals granted in December 2009 indicate that this facility was always intended to be a garage/dead-storage facility to support the other residential uses on the property, it was never represented to the Board or asked of the Board to approve any habitable space within the property; and further, the Board is saying it is not in a position to redesign the interior of the building, but is just simply re-clarifying the intention of the Board's approval. Also, the Board is stating that it is up to the applicant's Architect to follow-up with that intention and that the Architect will have to decide whether the applicant can put a bathroom and a shower in a dead-storage garage. This motion was clarified and accepted by Mr. Schmierer. Mr. Knehr asked the motion to be clarified with regard to the second floor.*

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Following a discussion on the motion, the Board encouraged Mr. Knehr to seek guidance from his Architect regarding the approved garage facility and stairway to access the storage area.

Mr. Slaugh questioned whether a condition was placed on the design of the exterior, as approved. A brief discussion took place by the Board and it was stated that the clarification of the approval is only for the use. Mr. Schmierer advised the Board and applicant that the clarification is not for the building's exterior; and that as previously approved, the structure is to be designed as a 20x40 sq. ft. dead-storage garage. (See Attachment No. 1 – Reports/Approvals/Emails)

Exhibits:

- K-1 Package of Approval Letters and Emails
- K-2 Various Emails
- K-3 Architectural Plan

Witness: None

Public Comment: None

Chair Kremer moved and Mrs. Maffei seconded to accept the clarification issued - *that the Board is clarifying that the approvals granted in December 2009 indicate that this facility was always intended to be a garage/dead-storage facility to support the other residential uses on the property, it was never represented to the Board or asked of the Board to approve any habitable space within the property; and further, the Board is saying it is not in a position to redesign the interior of the building, but is just simply re-clarifying the intention of the Board's approval. Also, the Board is stating that it is up to the applicant's Architect to follow-up with that intention and that the Architect will have to decide whether the applicant can put a bathroom and a shower in a dead-storage garage.*

Vote:

AYES: Kulak, Maffei, Lewis, Gladwell, Lavine, Kremer
ABSENT: Brame, Kmosko

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**5. Application No. ZB-12/10(BRANDYWINE OPERATING PARTNERSHIP),
Bulk Variance, 100 Lenox Drive, Tax Map Page 51.02, Block 5101, Lot 21.01.**

The hearing was recorded. The Board took jurisdiction.

Dolores Roberts, Esquire, represented the applicant. Ms. Roberts briefly explained that the applicant is seeking a sign variance to permit the installation of a new freestanding sign on the property of Princeton Pike Corporate Center at the intersection of Lenox Drive North and Princeton Pike. Currently there is one existing sign on the property for the old Lenox China Headquarters. The applicant referred to the variances and exceptions stating that under §535.Y.2., the site is limited to one freestanding sign, whereas, the proposed sign would be the second sign along Princeton Pike. In addition, the applicant is proposing a sign area of 81.5 sf., whereas, the LUO requires a permitted area of 50 sf. in size. The applicant's professional gave testimony with regard to the design of the proposed sign. The applicant referred to Exhibit A-1 and described the photograph of an existing sign for tenant Jingoli, who is now an owner of a unit. The applicant proceeded to refer to Exhibit A-2 and gave an overview of the location of the proposed signage with regard to the previous approvals by the Planning Board. The applicant stated that the proposed sign would be 30 feet from the property line. With regard to Exhibit A-3, the applicant described the dimensions of the proposed sign to be about 8 feet 5 inches wide by 9 feet 7 inches in height.

Mr. Slaugh reviewed his report dated August 10, 2010, and addressed the orientation of the sign toward the apex of the corner. He questioned whether the signage would be better sited on the northern side of Lenox Drive North. The applicant explained that the motorist will be able to identify the two-faced sign from the south and northbound for appropriate turning movements. The applicant further explained that the location of the sign would be in concert with the proposed future expansion of the Lenox Drive North and traffic signalization, as per the previous "site plan" approvals by the Planning Board. The applicant referred to Exhibit A-4 and proceeded to describe the surrounding area while giving testimony for the needed signage. The applicant explained that the additional identification signage at the entrance of the park would give consistency of signage throughout the park and would help to eliminate the confusion that some people have when unable to locate the correct building. Mr. Slaugh provided testimony about the future road improvements for Princeton Pike and discussed the significant traffic distribution on Lenox Drive that will take place. He added that a larger sign (30 sq. ft. or larger) with larger letters would aid in that identification process with one's ability to, visually, find Lenox Drive North.

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With regard to the landscaping for the base of the sign, Mr. Slaugh requested the applicant to work with the Township Professionals. The applicant agreed to comply. The Board accepted. (See Attachment No. 2 – Reports)

Exhibits:

- A-1 (Photograph of Existing Jingoli Sign)
- A-2 (Site Plan – Previously Approved)
- A-3 (Proposed Sign Dimensions)
- A-4 (Aerial View of Princeton Pike Corp. Center)

Witnesses placed under oath:

- **Mike Sonlin, Expert in Sign Design, Effective Sign Works, Burlington, NJ**
- **Caryn Newman, Senior Property Manager for Brandywine**

Also placed under oath: Brian Slaugh, PP/AICP, Township Professional

Public Comment: None

Vice-Chair Lavine moved and Mr. Gladwell seconded to approve the application, including bulk variance, subject to all stated conditions and recommendations contained in the Township Professionals' reports.

Vote:

**AYES: Kulak, Maffei, Lewis, Gladwell, Lavine, Kremer
ABSENT: Brame, Kmoski**

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6. Old Business/New Business/Correspondence: None

7. Adjournment

There being no further business to come before the Board, the meeting was adjourned at 9:17 p.m.

Digital audio file of this meeting is available upon request.

Respectfully submitted,

Sara A. Summiel

Sara A. Summiel

Recording Secretary

MINUTES APPROVED:

September 29, 2010